UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

)	
J.P. MORGAN CHASE & CO. and)	
CHASE INVESTMENT SERVICES)	
CORP., now doing business as J.P.)	
MORGAN SECURITIES, LLC,)	
)	
Respondents)	
•)	
and)	Case No. 02-CA-098118
)	
ROBERT M JOHNSON, JENNIFER)	
ZAAT-HETELLE, SCOTT VAN)	
HOOGSTRAAT, AND PETER PICCOLI,)	
,,	j.	
Charging Parties)	

RESPONDENTS' EXCEPTIONS TO ADMINISTRATIVE LAW JUDGE'S DECISION

Pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the Respondents, J.P. Morgan Chase & Co. and J.P. Morgan Securities, LLC ("Respondents"), hereby file the following Exceptions to the Administrative Law Judge's ("ALJ") decision dated August 21, 2013.

- 1. The Respondents except to the ALJ's inclusion of JPMorgan Chase Bank, N.A. and Tiffany Ryan in the caption preceding his decision because, on the morning of the trial, the parties revised their stipulation to omit Ryan and JPMorgan Chase Bank, N.A. based on the withdrawal and severance of the Ryan charge.
- 2. The Respondents except to the ALJ's description of J.P. Morgan Chase & Co, J.P. Morgan Securities, LLC, Chase Investment Services Corp., and JPMorgan Chase Bank, N.A. as joint employers in the caption preceding his decision because there was no evidence introduced

at trial to support a joint employer finding and the parties' stipulation intentionally did not make any representations regarding the joint employer issue.

- 3. The Respondents except to the ALJ's description, in his Statement of the Case at pp. 1-2, of J.P. Morgan Chase & Co, J.P. Morgan Securities, LLC, Chase Investment Services Corp., and JPMorgan Chase Bank, N.A. as joint employers because there was no evidence introduced at trial to support a joint employer finding and the parties' stipulation intentionally did not make any representations regarding the joint employer issue.
- 4. The Respondents except to the ALJ's finding, at p. 2, lines 27-29, that J.P. Morgan Chase & Co. and Chase Investment Services Corp. were joint employers of the Charging Parties because there was no evidence introduced at trial to support a joint employer finding and the parties' stipulation intentionally did not make any representations regarding the joint employer issue.
- 5. The Respondents except to the ALJ's conclusion, at p. 6, line 18, that the allegations in the complaint of unfair labor practices should not be dismissed pursuant to Section 10(b).
- 6. The Respondents except to the ALJ's conclusion, at p. 7, lines 11-17, that Section 10(b) does not bar the complaint's allegation that Respondents maintained and enforced the Binding Arbitration Agreement.
- 7. The Respondents except to the ALJ's conclusion, at p. 7, lines 19-49, and p. 8, lines 1-11, that the complaint's allegation regarding Respondents' filing of a motion to compel arbitration is not barred by Section 10(b).
- 8. The Respondents except to the ALJ's reliance, at p. 8, lines 14-30, on the *D. R. Horton* decision. The Board should reverse *D. R. Horton* because it was erroneously decided and has been rejected by almost every court that has considered it.

- 9. The Respondents except to the ALJ's rejection, at p. 8, lines 32-33, of Respondents' 10(b) defense.
- 10. The Respondents except to the ALJ's reliance, at p. 8, lines 42-52, and p. 9, lines 1-7, on the *D. R. Horton* decision. The Board should reverse *D. R. Horton* because it was erroneously decided and has been rejected by almost every court that has considered it.
- 11. The Respondents except to the ALJ's finding, at p. 9, lines 9-46, that the Binding Arbitration Agreement ("BAA") is not distinguishable from the arbitration agreement found to be unlawful in *D. R. Horton*, and that the BAA is therefore unlawful.
- 12. The Respondents except to the ALJ's conclusion, at p. 9, lines 48-52, and p. 10, lines 1-8, that the fact that the BAA does not prohibit filing of NLRB charges does not distinguish it from the arbitration agreement found to be unlawful in *D. R. Horton*, and that the BAA is therefore unlawful.
- 13. The Respondents except to the ALJ's rejection, at p. 10, lines 10-30, of Respondents' contention that the Board had no authority to decide *D. R. Horton*, rendering that decision invalid.
- 14. The Respondents except to the ALJ's rejection, at p. 10, lines 32-46, and p. 11, lines 1-9, of Respondents' contention that *D. R. Horton* was wrongly decided by the Board.
- 15. The Respondents except to the ALJ's finding, at p. 11, lines 9-13, that Respondents have violated the Act by maintaining a mandatory arbitration agreement that waives the right to maintain class or collective actions.
- 16. The Respondents except to the ALJ's finding, at p. 13, lines 24-52, and p. 14, lines 1-21, that Respondents' motion to compel arbitration of the Charging Parties' claims filed in

federal court had an unlawful objective under federal law such that it is not protected by the First Amendment right to petition.

17. The Respondents except to the ALJ's conclusion, at p. 14, lines 23-26, that Respondents have violated the Act by enforcing the BAA by filing a motion in federal court seeking to dismiss or stay the Charging Parties' class action lawsuit and to compel arbitration.

18. The Respondents except to the ALJ's conclusions of law (1), (2) and (3), at p. 14, lines 30-43.

19. The Respondents except to all of the remedies, at pp. 14-15, that the ALJ has recommended.

Date: September 25, 2013 Respectfully submitted,

By: /s/ Jonathan C. Fritts

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of September, 2013, true and correct copies of the Respondents' Exceptions to Administrative Law Judge's Decision have been served by electronic mail upon the following:

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